HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 1236 of 2001
(Old No. 815 of 1994)

The United India Insurance Company ... Appellant

Versus

Smt. Nasreen & another .... Respondents.

Dated: 28.9.2004

Hon. Rajesh Tandon j.

Heard the learned counsel for the parties.

Present appeal has been field against the judgment and award dated 8.4.1994 passed by the Motor Accident Claims Tribunal, Nainital.

Briefly stated that respondent no.1 has field a claim petition under Section 110 of the Motor Vehicle Act, for grant of compensation on account of death of her husband Sri Sartaj Ali in a motor vehicle accident. The petitioner has alleged that on 23.4.1991 at about 7.00 AM her husband was pulling rickshaw on Bareilly Road, Haldwani. The Truck No. UP 02/5165 hit the rickshaw due to which Sartaj Ali sustained fatal injuries and he succumbed to the injuries on the way to the Hospital. The accident had taken place due to rash and negligent driving by the truck driver. The deceased was earning Rs.2,000/- per

month and he was aged 21 years at the time of accident. The petitioner claimed a compensation of Rs.4,00,000/.

The claim petition has been contested by the opposite parties. On the basis of pleadings of the parties the Claims Tribunal has framed as many as five issues.

The claims tribunal on the basis of ocular testimony of eyewitness P.W.2 Iqbal has held that the accident took place due to rash and negligent driving of the truck in question. The claims Tribunal has held that the deceased was pulling rickshaw. He assessed the monthly income of the deceased as Rs.600/- or Rs.7,200/- per annum. The deceased was aged about 21 years at the time of accident. The Claims Tribunal has assessed compensation of Rs.1,92,200/- and decreed the petition accordingly. Feeling aggrieved against the order the insurance company has preferred the present appeal.

The claims Tribunal on the ocular testimony of eye-witness of the accident P.W.2 Iqbal has given categorical findings that the accident took place due to rash and negligent driving of the truck driver. The opposite party no.1 owner of the truck in question has filed insurance cover note. Opposite party no.2 insurance company has not adduced any evidence.

The age of the deceased at the time of accident was 21 years and he was earning a sum of Rs.600/ per month. Thus keeping in view the age and income of the deceased the amount of compensation assessed by the Claim Tribunal is proper and justified. I find no illegality or infirmity in the order passed by the Claims Tribunal.

Admittedly the truck was insured with the appellant the united India Insurance Company at the time of accident and

the trial Court has rightly held the insurance company liable for payment of compensation to the petitioner.

In view of the aforesaid fact, the appeal has no force and is hereby dismissed. No order as to costs.

(Rajesh Tandon J.)

28.9.2004
*Dhyani